

House Engrossed

State of Arizona  
House of Representatives  
Forty-sixth Legislature  
Second Regular Session  
2004

CHAPTER 258

# HOUSE BILL 2651

AN ACT

AMENDING SECTION 49-1073, ARIZONA REVISED STATUTES; RELATING TO MUNICIPAL  
TANK CLOSURES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 49-1073, Arizona Revised Statutes, is amended to  
3 read:

4 49-1073. County and municipal tank closure and corrective  
5 action program; account

6 A. The COUNTY AND municipal tank closure and corrective action program  
7 account is established within the department. THE DIRECTOR SHALL ADMINISTER  
8 THE ACCOUNT. Monies in the account shall be used only for the purpose of  
9 providing assistance pursuant to this section ~~as requested by incorporated~~  
10 ~~cities and towns~~. COUNTIES, ONLY WITH RESPECT TO UNINCORPORATED AREAS OF  
11 THIS STATE, AND INCORPORATED CITIES AND TOWNS ARE ELIGIBLE TO RECEIVE MONIES  
12 FROM THE ACCOUNT. The account is exempt from the provisions of section  
13 35-190, relating to the lapsing of appropriations. Interest earned on monies  
14 in the account shall be credited to the account. The account consists of  
15 monies from the following sources:

16 1. Monies transferred from the grant account established pursuant to  
17 section 49-1071, subsection A.

18 2. Monies appropriated by the legislature.

19 3. Gifts, grants or donations.

20 B. ~~Funds~~ MONIES in the COUNTY AND municipal tank closure and  
21 corrective action program account shall be used by the director to perform  
22 permanent closure on underground storage tanks and required corrective action  
23 on releases from underground storage tanks discovered during the permanent  
24 closure only to the extent that the activities are not eligible for or within  
25 the coverage limits of section 49-1054. Permanent closure shall be performed  
26 pursuant to section 49-1008 and any required corrective action shall be  
27 performed pursuant to section 49-1005 and the rules adopted pursuant to those  
28 sections. ~~Funds~~ MONIES from the COUNTY AND municipal tank closure and  
29 corrective action program account may be used for closure of underground  
30 storage tanks that are not the source of a release.

31 C. The director shall perform underground storage tank closure and  
32 required corrective action pursuant to this section until ~~funds~~ MONIES in the  
33 COUNTY AND municipal tank closure and corrective action program account are  
34 depleted. When ~~funds~~ MONIES in the COUNTY AND municipal tank closure and  
35 corrective action program account are depleted, all underground storage tank  
36 closure and required corrective action activities performed or to be  
37 performed pursuant to this section shall cease. The director may continue  
38 to perform corrective action pursuant to section 49-1017, subsection A on  
39 releases discovered during permanent closure undertaken pursuant to this  
40 section.

41 D. INCORPORATED cities and towns are eligible for participation in the  
42 COUNTY AND municipal tank closure and corrective action program pursuant to  
43 this section if both of the following conditions are satisfied:

44 1. ~~The incorporated area of a city or town~~ has a population of less  
45 than fifteen thousand persons.

1           2. The person who owns a property or the person with principal control  
2 of a property or an underground storage tank, LOCATED WITHIN THE CITY OR  
3 TOWN, that appears on the list required by subsection ~~E~~ F, paragraph 1 of  
4 this section is not an owner or operator of the underground storage tank and  
5 an owner or operator of the underground storage tank cannot be located  
6 pursuant to section 49-1017, subsection A, paragraph 1.

7           E. A COUNTY IS ELIGIBLE FOR PARTICIPATION IN THE COUNTY AND MUNICIPAL  
8 TANK CLOSURE AND CORRECTIVE ACTION PROGRAM PURSUANT TO THIS SECTION IF THE  
9 REQUIREMENTS OF SUBSECTION D, PARAGRAPH 2 OF THIS SECTION ARE MET WITH  
10 RESPECT TO PROPERTY OR AN UNDERGROUND STORAGE TANK LOCATED WITHIN THE  
11 UNINCORPORATED AREA OF THE COUNTY.

12           ~~E~~. F. A COUNTY, city or town that requests participation pursuant to  
13 this section shall submit a written request to the department that contains  
14 all of the following:

15           1. A list of each underground storage tank and underground storage  
16 tank site that meets the requirements of ~~subsection~~ SUBSECTIONS D AND E of  
17 this section AND that is to be considered for eligibility for closure  
18 activities under this program. The list shall identify the property owner  
19 or person with control of the property or underground storage tank, the  
20 address of the underground storage tank site and the person to be the contact  
21 with the department for the property owner or person with control of the  
22 property or underground storage tank.

23           2. A statement from the COUNTY, city or town that available public  
24 records have been searched and the owner or operator of the underground  
25 storage tank on the list submitted pursuant to paragraph 1 of this subsection  
26 cannot be located. A list of the specific documents searched by the COUNTY,  
27 city or town shall be included.

28           3. Evidence that the property owner or person with control of the  
29 property or the underground storage tank has consented to the closure and any  
30 required corrective action associated with the underground storage tank and  
31 has granted the department access to the underground storage tank site.

32           4. The name, telephone number and address of the person at the COUNTY,  
33 city or town who will be responsible for coordinating the request with the  
34 department.

35           5. A completed notification for underground storage tanks form for  
36 each underground storage tank proposed for closure under the program.

37           ~~F~~. G. The director shall consider requests from COUNTIES, cities and  
38 towns in the order received by the department. Subject to the availability  
39 of monies in the account established pursuant to subsection A of this section  
40 and the priorities established by this subsection, the director shall select  
41 those underground storage tank sites where permanent closure and required  
42 corrective action on a release from an underground storage tank are to be  
43 performed. The department shall issue a determination to the COUNTY, city  
44 or town making the request within one hundred twenty days after receiving the  
45 request. A determination by the director pursuant to this section does not

1 constitute an appealable agency action as defined in section 41-1092. The  
2 department shall reimburse from the account each COUNTY, city or town for the  
3 actual costs incurred in preparing the request selected by the director  
4 pursuant to this subsection, but not more than fifteen thousand dollars per  
5 COUNTY, city or town, regardless of how many requests are made. The director  
6 shall prioritize those underground storage tank sites where permanent closure  
7 and required corrective action on releases from the underground storage tank  
8 may be performed, based on all of the following criteria:

9 1. Compliance of the submitted request by the COUNTY, city or town  
10 with the requirements of subsections D, ~~and E~~ AND F of this section.

11 2. Releases that pose a threat to human health, AND welfare and the  
12 environment in the area where the underground storage tank is located.

13 3. The reduction of threat to human health, AND welfare and the  
14 environment from closure of the underground storage tank or performance of  
15 corrective action on a release from the underground storage tank.

16 4. The relationship between releases in the area and the underground  
17 storage tank.

18 5. Other site-specific conditions determined by the director.

19 ~~G.~~ H. On the department's completion of closure pursuant to section  
20 49-1008 and, if required, corrective action pursuant to section 49-1005 and  
21 the rules adopted pursuant to those sections, the director shall issue a  
22 letter to the affected persons and the COUNTY, city or town that the  
23 requirements were met.

24 ~~H.~~ I. The director shall not provide any coverage, and the COUNTY AND  
25 municipal tank closure and corrective action program account is not liable,  
26 for compensating third parties for bodily injury or property damage caused  
27 by closure activities, corrective action activities or releases from  
28 underground storage tanks.

APPROVED BY THE GOVERNOR MAY 20, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 20, 2004.

Passed the House March 11, 2004,

Passed the Senate May 13, 2004,

by the following vote: 57 Ayes,

by the following vote: 26 Ayes,

0 Nays, 3 Not Voting

0 Nays, 4 Not Voting

Jake Flake  
Speaker of the House

Ken Blumenthal  
President of the Senate

Norman L. Syoore  
Chief Clerk of the House

Charmine Bellington  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
14<sup>th</sup> day of May, 2004,

at 11:07 o'clock a. M.

Jennifer L. Ibarra  
Secretary to the Governor

Approved this 20 day of

May, 2004,

at 2<sup>55</sup> o'clock P. M.

J. R. ...  
Governor of Arizona

H.B. 2651

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 20 day of May, 2004,

at 4:21 o'clock P. M.

Janice K. Brewer  
Secretary of State